

Application No. 10/717,098 2 of 5
Reply dated 6 October 2006
Responsive to Office Action mailed on 12 July 2006

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REMARKS

Claim Rejections

Claims with same limitations allowed over same references in parent Application

It is respectfully noted that all of the current rejections were copied *verbatim* from the Office Action mailed on 21 November 2002 in the parent Application No. 10/120,764. Subsequent to that Office Action, all of the claims in the parent Application were allowed without amendment and U.S. Patent No. 6,680,422 was granted. The independent claims in the present Application contain all of the limitations of the corresponding claims allowed in the parent Application and also contain additional limitations that further narrow their scope. Therefore, given that the claims in the parent Application were allowed over the same references, it is respectfully averred that the present claims are likewise allowable over the same references cited in the present identical rejections. Nevertheless, in order to make this Reply complete, the present rejections will be addressed here.

Claims 1, 3, 5-11, and 14 over Mason

These claims were rejected under 35 U.S.C. § 102(b) or in the alternative under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 3,559,648 to Mason.

Claim 1 contains the limitations that the disposable absorbent article has a longitudinal axis and laterally opposed longitudinal edges, and that the fecal material storage element has laterally opposed longitudinal edges disposed on opposing sides of the longitudinal axis. The effect of these limitations is that the fecal material storage element extends across the longitudinal axis of the disposable absorbent article between its own laterally opposed longitudinal edges and is therefore necessarily present at the longitudinal axis of the disposable absorbent article. Such a structure is shown in Figures 1 and 2, where the fecal material storage element 25 is clearly depicted as extending laterally from near one of the longitudinal edges of the absorbent article across the longitudinal axis of the absorbent article to near the laterally opposing longitudinal edge of the absorbent article. This structure of the fecal material storage element is appropriate for the intended purpose of collecting and retaining low-viscosity fecal material as close as practical to its point of deposit from the anal opening of the wearer, which is situated along the longitudinal axis of the worn article.

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In the Office Action, the infolded panel portions 25 of the absorbent pad 10 in the Mason reference were equated to the claimed fecal material storage element. However, these two laterally opposed panel portions of the absorbent core that are folded laterally inward toward the centerline, or longitudinal axis, of the diaper do not meet, thus leaving a centrally located gap between them. In particular, the panel portions 25 are infolded to deliberately leave a centrally located channel 30, which is stated in the Mason reference to prevent "over saturating a localized area of the pad by dispersing the waste fluid throughout substantially the entire pad area". Please see column 2 at lines 28 through 34, column 2 at line 69 through column 3 at line 3, other portions of the text, Claim 2, and Figures 2, 3, and 5. Hence, the panel portions 25 disclosed in the Mason reference are not equivalent to the claimed fecal material storage element having laterally opposed longitudinal edges disposed on opposing sides of the longitudinal axis of the disposable absorbent article. Instead, one panel portion has both of its laterally opposing longitudinal edges disposed on one side of the longitudinal axis of the disposable absorbent article and the other panel portion has both of its laterally opposing longitudinal edges disposed on the other side of the longitudinal axis of the disposable absorbent article. In other words, neither of the panel portions extends across the longitudinal axis of the disposable absorbent article.

Thus, the Mason reference fails to teach or disclose all the limitations of Claim 1 and thereby fails to anticipate this claim. In addition, the Mason reference provides no suggestion or motivation to modify its teachings to make the present invention. Instead, it teaches the desirability of the central channel and, by doing so, also makes it apparent that the elimination of the central channel would render the resultant diaper unsuitable for its intended purpose. Therefore, the requirements of MPEP 2142 and 2143 for the establishment of a *prima facie* case of obviousness have not been met with respect to Claim 1. Claims 3, 5 through 11, and 14 depend from Claim 1 and thereby contain all of its limitations. Accordingly, it is respectfully requested that the rejections of these claims over the Mason reference be withdrawn.

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Claims 2, 4, 12, 13, and 15-20 over Mason in light of Matthews *et al.*

These claims were rejected under 35 U.S.C. § 103(a) as being unpatentable over the same U.S. Patent 3,559,648 to Mason in view of U.S. Patent 4,397,644 to Matthews *et al.*

As noted above, the Mason reference is insufficient for the rejection of Claim 1. Independent Claims 15 and 17 likewise contain the aforementioned limitations discussed with respect to Claim 1 and thus are not properly rejected on the basis of the Mason reference, for the same reasons as Claim 1. The incorporation of the bonding disclosed in the Matthews *et al.* reference as proposed in the Office Action fails to correct the deficiencies noted above with respect to the requirements of MPEP 2142 and 2143.

Therefore, the requirements of MPEP 2143 for the establishment of a *prima facie* case of obviousness have not been met with respect to independent Claims 1, 15, and 17. The rejected dependent claims depend from these independent claims and thereby contain all of their limitations. Accordingly, it is respectfully requested that the rejections of Claims 2, 4, 12, 13, and 15-20 over Mason in light of Matthews *et al.* be withdrawn.

Claims 13, 15, and 16 over Mason in view of Matthews *et al.*, Jones, and Meyer *et al.*

These claims were rejected under 35 U.S.C. § 103(a) as being unpatentable over the same U.S. Patent 3,559,648 to Mason in view of the same U.S. Patent 4,397,644 to Matthews *et al.* and further in view of U.S. Patent 3,593,717 to Jones and U.S. Patent 4,798,603 to Meyer *et al.*

As noted above, the Mason and Matthews *et al.* references are insufficient for the rejections of Claim 1, from which Claim 13 depends, and of Claim 15 and Claim 16, which depends from Claim 15. The incorporation of aspects of the disclosures of the Jones and Meyer *et al.* references as proposed in the Office Action fails to correct the deficiencies noted above with respect to the requirements of MPEP 2142 and 2143.

In addition to the insufficiency noted above with respect to all three rejected claims, an inaccuracy with respect to the specific rejection of Claim 13 bears mention. In the Office Action, the transport layer 18 of the Meyer *et al.* reference was equated to the claimed fecal material

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storage element. It was then accurately stated that this transport layer is capable of resiliently compressing under a pressure that is normally applied by the wearer during use. However, it was then erroneously concluded that this disclosure by Meyer *et al.* makes it obvious to maintain the depth of the blind holes as specified in Claim 13. In the Meyer *et al.* reference, the apertured layer 18 readily compresses so as to give up any retained liquid to the absorbent core. This performance under pressure is clearly disclosed to be a desired effect of the disclosed structure. Please see, among several references in the text, column 10, lines 22 through 54, the disclosure of which can be summarized as stating that an easily compressed transport layer 18 is desired, because when it is squeezed by the movement of the wearer, the liquid that would otherwise be retained within it is moved away from the wearer and into the core. This is clearly the opposite result and structure from the present invention in which, rather than easily compressing when subjected to normal in-use pressure, the fecal material storage element resists compression so as to maintain a certain depth of blind hole when under that pressure.

Therefore, the requirements of MPEP 2142 and 2143 for the establishment of a *prima facie* case of obviousness have not been met with respect to Claims 13, 15, and 16. Accordingly, it is respectfully requested that the rejections of these claims be withdrawn.

Summary of this Reply

The rejections of claims have been argued. No new matter has been added.

Respectfully submitted,
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